



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 7, 1992

Mr. Mark E. Dempsey
Assistant City Attorney
City of Garland
P. O. Box 469002
Garland, Texas 75046-9002

OR92-459

Dear Mr. Dempsey:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 16574.

You have received two requests for information relating to a shooting that occurred June 16, 1992. Specifically, the requestors seek copies of the "911" tapes that include, *inter alia*, recordings of two telephone calls: one placed by a victim of the shooting, the other by a witness. You advise us that some of the requested information has already been made available to the requestors. You claim that the portion of the information not already made public is excepted from required public disclosure by section 3(a)(8) of the Open Records Act.

Section 3(a)(8) of the act excepts

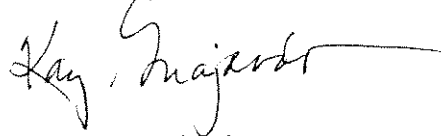
records of law enforcement agencies and prosecutors that deal with the detection, investigation, and prosecution of crime and the internal records and notations of such law enforcement agencies and prosecutors which are maintained for internal use in matters relating to law enforcement and prosecution.

Where an incident involving allegedly criminal activity is still under active investigation or prosecution, section 3(a)(8) may be invoked by any proper custodian of information which relates to the incident. Open Records Decision No. 474 (1987) at 4-5. We understand that the requested information relates to a pending police department investigation. Accordingly, we conclude that the

portions of the requested information not already made public may be withheld under Open Records Act section 3(a)(8).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-459.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Opinion Committee

KHG/GCK/lmm

Ref.: ID# 16574
ID# 16579

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